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BOOK REVIEWS

INHERITANCE TAXATION, by Lafayette B. Gleason and Alexander Otis. (Albany & New York: Mathew Bender & Co., 1917, pp. lviii, 836.)

This treatise on the law of inheritance taxation is broad in its scope, treating the subject under both State and Federal statutes and decisions. The work is extensive, beginning with the history and theory of this form of taxation and ending with forms to be used in practice and procedure.

The book is divided into six parts and review of the book can best be made by taking up each part as it is given.

Part I deals with the nature of the tax. An inheritance tax is generally held to be an excise or impost upon the right to succeed to, or transmit, property. It is not a property tax. Many of the cases conflict as to whether the State of the owner's domicile, or the State of the actual situs, is entitled to the tax on intangibles. The result is that flagrant instances of double taxation are on record. A discussion of general rules of law on many different subjects is naturally found in a work so complete as this one. Rules of construction and application of statute provisions relating to the tax are fully set forth.

Part II treats of the transfer of the property. An interesting phase of the subject is considered under "What a Testator Cannot Do" and "What He Can Do." Here are shown ingenious methods that have been resorted to by testators to make the tax fall as lightly as possible upon the estates left behind.

The question of when the transfer is consummated is important. Often the owner, contemplating death, gives his property away. Whether or not an inheritance tax must be paid on such a transfer is treated by the authors under three heads: (1) When the *transaction* is completed *inter vivos* though payment is postponed until after death, the transfer is not taxable. (2) If the contract is executory, the transfer is taxable. (3) Where the consideration is inadequate, the transfer is taxable.

The authors inform us that transfers taking place under the common law are not taxable by virtue of statutes providing for inheritance taxation unless such transfers or estates are specifically mentioned in the statute. Thus an estate by dower or curtesy would not be taxable unless particularly mentioned.

Part III is taken up with a discussion of conflicts of law on the subject of the domicile of the decedent. This division also touches exemptions from the tax, both personal and charitable. Instructions on how to compute the tax are herein given.

Part IV deals with the property, both real and personal, tangible and intangible. Herein is discussed the application of the tax to the many different kinds of estates.

Part V treats of procedure. All the forms necessary in pleading

and practice, where the question of inheritance taxation is involved, are given.

Part VI is an analytical discussion of the Federal and State statutes. It may be of interest to Virginia lawyers to read that Virginia is the only State that does not levy an inheritance tax upon a transfer by deed, grant, sale or gift made "in contemplation of death and intended to take effect in possession or enjoyment at or after death." Thus inheritance taxation is avoided in Virginia where the decedent disposed of his estate by deed to take effect in possession after death.

The State statutes are set forth in the back of the book.

The statutes of all of the States are reviewed and decisions from nearly every jurisdiction are to be found. But most of the cases cited are from New York. This may be offered as a criticism but it is only natural, as most of the largest estates are located in New York, and consequently many of the leading cases arise there. Also, the authors are practitioners in New York.

We recommend this book to the profession. It will be of especial value to the lawyer entrusted with the handling of large estates. While the authors write in the preface that "This book undertakes to point no way of evading the law," yet it will be a helpful guide in the giving of legal advice on questions concerning inheritance taxation.

W. CHAPMAN REVERCOMB.